

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**July 26, 2006**

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Mallano, J., Aldrich, J. (Assigned) and S. Stahl, Deputy Clerk.

Each of the following:

B185046     Spiegel Development, Inc., v. SFC Realty Prof.  
B185792     Tyler Medical Clinic v. Gess & Associates  
B185869     Yin v. Zhong

Argument waived, cause submitted.

B178698     Bowen  
                 v.  
                 Union Bank of California et al.

Merits:

Argued by Andrea Y. Slade for appellants and respondent waived oral argument. Cause submitted.

Aldrich, J. (assigned) leaves the bench.

Justices Vogel and Rothschild assume the bench.

B185192     Mohiuddin  
                 v.  
                 Creative Bus Sales, Inc.

Merits:

Argued by Elizabeth G. O'Donnell for respondent and appellant waived oral argument. Cause submitted.

DIVISION ONE (Continued)

B181840     Borten  
              v.  
              Santa Monica Rent Control Board

Merits:  
Argued by Rosario Perry for appellant and by David Pettit for respondent.  
Cause submitted.

B184619     Daniels et al.  
              v.  
              Ramirez

Merits:  
Argued by Jeanne Collachia for appellants and by Albert W. Ramirez for  
respondent. Cause submitted.

Vogel, J. leaves the bench.

B186947     Shafran et al.  
              v.  
              Franchise Tax Board

Merits:  
Argued by W. Patrick O'Keefe, Jr. for appellants and by Anthony Sgherzi,  
Deputy Attorney General, for respondent. Cause submitted.

Mallano, J. leaves the bench.

Vogel, J. takes the bench.

B179968     McAteer  
              v.  
              Martin Bros./Marcowall, Inc.

Merits:  
Argued by Pamela E. Dunn for appellant Martin Bros./Marcowall, Inc. and  
by Thomas G. Stolpman for appellant McAteer. Cause submitted.

DIVISION ONE (Continued)

B174757     Nieto  
              v.  
              The Paul Revere Life Insurance Company

Merits:  
Argued by Robert S. Gerstein for appellant/respondent Nieto and by Robert J. McKennon for respondent/appellant The Paul Revere Life Insurance Company. Cause submitted.

B184141     Carey  
              v.  
              Carey

Merits:  
Argued by Roger Jon Diamond for appellant and by Allan E. Ceran for respondent. Cause submitted.

Rothschild, J. leaves the bench.

Mallano, J. returns to the bench.

B176377     McKell et al.  
              v.  
              Washington Mutual, Inc. et al.

Merits:  
Argued by Kevin J. Green for appellants and by Julia B. Strickland for respondents. Cause submitted.

Court adjourned.

July 26, 2006 (Continued)

DIVISION TWO

B184928 People (Not for Publication)  
v.  
Hamilton

As to case No. BA280030, the matter is remanded with directions to the trial court to strike, rather than stay, the section 12022.7 allegation and to enter its reasons in the minutes in accordance with section 1385, subdivision (a). The trial court is further directed to correct the abstract of judgment by striking the “W/ DEADLY WPN/INSTR” reference and by indicating that appellant was convicted of assault by means of force likely to produce great bodily injury. In all other respects, the judgment in case No. BA280030 is affirmed. As to case No. BA245921, the appeal is dismissed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Chavez, J.

B184088 People (Not for Publication)  
v.  
Garcia

The judgment of conviction is affirmed. The sentence is reversed. The cast is remanded for resentencing in accordance with this opinion.

Ashmann-Gerst, J.

We concur:   Doi Todd, Acting P.J.  
                      Ashmann-Gerst, J.

July 26, 2006 (Continued)

## DIVISION TWO (Continued)

B185235      People                          (Not for Publication)  
v.  
Hong

The judgment is affirmed.

Ashmann-Gerst, J.

We concur:   Boren, P.J.  
                      Doi Todd, J.

DIVISION THREE

B176575      Eddie Amari et al      (Not for Publication)  
v.  
Jeremiah T. Mathai et al

The judgment is affirmed in all respects except for the legal description of the implied easement contained in the judgment. The judgment's legal description of the implied easement is vacated. With respect to the location of the implied easement, the matter is remanded to the trial court with directions to conduct an evidentiary hearing and to make a determination, based on expert testimony, as to whether the legal description of the implied easement, as contained in the judgment, is consistent with the verdict. If the trial court determines the judgment's legal description of the implied easement was incorrect, it shall modify the judgment to ensure conformity with the verdict. If the trial court determines the original legal description of the implied easement was correct, it shall reinstate that legal description in the judgment. The parties shall bear their respective costs on appeal.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

DIVISION THREE (Continued)

B182837      Bel Air Cliff Property Holding, Inc.      (Not for Publication)  
v.  
Kaveh Kevin Golshan etc

The trial court judgment is reversed. Upon remand, the trial court is directed to enter a new and different judgment consistent with this opinion granting the motion of summary judgment filed by Bel Air. Bel Air is awarded costs on appeal.

Kitching, J.

We concur: Klein, P.J.  
Croskey, J.

B189198      In re Cesar Morales      (Not for Publication)  
on  
Habeas Corpus

The petition for writ of habeas corpus is granted as to Claim 7 concerning sentencing error, and denied in all other respects.

Aldrich, J.

We concur: Klein, P.J.  
Croskey, J.

DIVISION FOUR

B183851      People      (Certified for Publication)  
v.  
Versal B.

The order vacating the previous order admitting Versal B. into the section 790 deferred entry of judgment program is affirmed.

Epstein, P.J.

We concur: Manella, J.  
Suzukawa, J.

## DIVISION FOUR (Continued)

B187588 People v. Sanders (Not for Publication)

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.  
Manella, J.

**DIVISION SIX**

B187061 People (Not for Publication)  
v.  
Zamudio

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

B189603 People (Not for Publication)  
v.  
Ramey

The order is affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

July 26, 2006 (Continued)

## DIVISION SIX (Continued)

[illegible]

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Coffee, J.

B187350      Maria Vista Estates      (Not for Publication)  
v.  
Puglisi

The order is affirmed. Costs awarded to respondent.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

B180654 People (Not for Publication)  
v.  
Smith

The judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.  
Perren, J.



July 26, 2006 (Continued)

## DIVISION SIX (Continued)

B177435      The People      (Certified for Publication)  
v.  
Ranger Insurance Company

The judgment is reversed. Costs are awarded to appellant.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

## DIVISION SEVEN

B184718 People (Not for Publication)  
v.  
Moore

The judgment of conviction is affirmed. Moore's sentence is vacated, and the cause remanded for resentencing in accordance with the views expressed in this opinion.

Perluss, P.J.

We concur: Woods, J.  
Zelon, J.

B188699 People (Not for Publication)  
v.  
Ewells

The appeal is dismissed.

Johnson, Acting P.J.

We concur: Woods, J.  
Zelon, J.

DIVISION SEVEN (Continued)

B176552      Kelly      (Certified for Publication)

v.

County of Los Angeles

The judgment is reversed. The County of Los Angeles is to recover its costs on appeal.

Perluss, P.J.

We concur:   Woods, J.  
                    Zelon, J.

B185916      People      (Not for Publication)

v.

Shaw

The judgment is affirmed.

Perluss, P.J.

We concur:   Woods, J.  
                    Zelon, J.

B184170      People      (Not for Publication)

v.

Gibson

The judgment is affirmed.

Perluss, P.J.

We concur:   Woods, J.  
                    Zelon, J.

July 26, 2006 (Continued)

DIVISION EIGHT

B181634 People (Not for Publication)  
v.  
Palacios

The judgment is reversed. Even had the inadmissible statements to Linn been excluded from trial, there was sufficient evidence upon which a properly instructed jury could have found defendant guilty of murder. Accordingly, the People may retry her.

Rubin, J.

We concur: Cooper, P.J.  
Boland, J.

B182324 People (Not for Publication)  
v.  
Jorden

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.  
Boland, J.